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10/584,105	08/21/2007	Mansour Samadpour	66090-005US0	3428

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EXAMINER

JOYNER, KEVIN

ART UNIT	PAPER NUMBER
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1775

NOTIFICATION DATE	DELIVERY MODE
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06/17/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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FINAL ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I in the reply filed on August 23, 2010 is acknowledged. The traversal is on the ground(s) that previously restricted claims 11-21 have now been amended to depend from claim 1. The traversal is found persuasive and therefore, claims 11-21 will be rejoined with claims 1-10. Concerning claims 22-30, because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 22-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 23, 2010.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4-13 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawhney et al. (U.S. Patent No. 6,387,977) in view of Baker, Jr. et al. (U.S. Patent No. 6,635,676).

Concerning claims 1 and 12, Sawhney discloses a method of reducing or preventing transfer of microbial contamination to or from a surface being cut; comprising;

Providing a surface to be cut (referenced as tubing);

Providing a cutting implement (referenced as a razor blade);

Coating the surface with an adherent antimicrobial barrier composition, comprising:

From about 5-15% (wt) of a gelling agent (referenced as a polyethylene glycol monomer; column 6, lines 1-25; column 20, lines 1-10);

A stabilizer and a surfactant or emulsifier (column 8, lines 17-30; column 19, lines 19-30);

An antimicrobial agent (referenced as hyaluronic acid; column 8, lines 35-45; column 9, lines 30-38); and

Cutting through the surface with the cutting instrument, wherein at least part of the adherent antimicrobial barrier composition will be intrinsically transferred (if only minimally) between the surface and the cutting instrument during cutting, and wherein transfer of microbial contamination to or from the surface is reduced or precluded due to the antimicrobial agent (See column 21, lines 45-62). With regard to claim 11, Sawhney continues to disclose coating, prior to cutting through a target surface, the target surface with the adherent barrier composition to provide a sacrificial layer that is partially transferable between the target surface and a cutting implement during cutting; and cutting through the sacrificial layer on the target surface with a cutting implement,

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whereby a protective layer is provided to (not on) the cutting implement surface (column 21, lines 45-60).

Sawhney does not appear to disclose the amount of the stabilizer or the surfactant however. Baker discloses a method of reducing or preventing transfer of contamination from a contaminated surface on a medical device (column 7, lines 25-35), comprising coating a contaminated surface with an adherent antimicrobial barrier composition (column 12, lines 1-13; column 13, lines 35-55; column 36, line 48 to column 37, line 7), comprising;

A gelling agent (column 41, lines 1-15);

From about 1-5% of glycerol (concerning claims 4 and 15; column 29, lines 55-58)

From about 1-5% of a Tween 20 surfactant (column 29, lines 55-58; concerning claims 5 and 16); and

From about 0.1-15% of cetylpyridinium chloride or ethanol (concerning claims 2, 6, 7, 13, 17 and 18; column 29, lines 55-58; column 29, lines 35-48) in order to utilize a stable emulsion that is proven to be effective against harmful bacteria and viruses (column 17, lines 15-40; column 28, lines 1-50) whereby transfer of contamination from the surface is reduced or precluded (column 3, lines 1-45). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize a 1-5% glycerol emulsifier, 1-5% of a Tween 20 surfactant, and 0.1-15% of a cetylpyridinium chloride or ethanol antimicrobial agent in the method of Sawhney in order to utilize a stable emulsion that is proven to be effective against harmful bacteria and viruses on a

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medical device as exemplified by Baker. Regarding claims 10 and 21, Sawhney continues to disclose that the composition is a gel (column 1, lines 15-20).

Concerning claims 8, 9, 19 and 20; Sawhney does not appear to disclose that the composition is heated to greater than 80 degrees Celsius prior to coating, wherein such heating is an antimicrobial agent. However, Baker continues to disclose that the composition is heated to greater than 80 degrees Celsius prior to coating, wherein such heating is an antimicrobial agent in order to properly prepare the suitable composition (column 30, lines 45-50). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Sawhney to include the step of heating the composition to a temperature greater than 80 degrees Celsius prior to coating, wherein such heating is an antimicrobial agent in order to properly prepare the suitable composition as exemplified by Baker.

5. Claims 3 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawhney et al. (U.S. Patent No. 6,387,977) in view of Baker, Jr. et al. (U.S. Patent No. 6,635,676) as applied to claim 1 and 12 above, and further in view of Beerse et al. (U.S. Patent No. 6,294,186).

Sawhney is relied upon as set forth above. Sawhney does not appear to disclose that the gelling or thickening agent is sodium alginate. Beerse discloses a method for reducing the transfer of contamination from a contaminated surface by coating the surface with an adherent antimicrobial barrier composition (column 1, line 56 to column 2, lines 13; column 3, lines 49-62). The reference continues to disclose that

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the composition comprises an emulsifier (column 15, lines 1-6), a surfactant (column 12, lines 9-12), an antimicrobial agent (column 20, lines 35-43), and a gelling or thickening agent comprising polyethylene glycol or sodium alginate at a percentage of about 3% (column 9, lines 55 to column 10, line 7; column 10, lines 39-43) in order to allow said composition to form into a gel for greater adhering properties (column 9, lines 55-65). Since both Sawhney and Beerse disclose a thickening agent of polyethylene glycol in an antimicrobial barrier composition, wherein Beerse discloses that such a suitable alternative for polyethylene glycol is sodium alginate, then it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize approximately 3% sodium alginate in the composition of Sawhney in order achieve the predictable result of allowing said composition to form into a gel for greater adhering properties as exemplified by Beerse.

Response to Arguments

6. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN JOYNER whose telephone number is (571)272-2709. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Marcheschi can be reached on (571) 272-1374. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Kevin C Joyner/
Primary Examiner, Art Unit 1775